

"sensory effect," used in claim 26, is not found in the specification. The Examiner's attention is directed to page 8, line 2, of the specification, wherein the term, "effects," is used to denote the functional result of the device of this invention. Also, attention is directed to page 26, lines 2 and 4, wherein the terms, "effects" and "electrical sensation," are used to denote the functional results of the invention.

The, "effects," disclosed are all received by the user through his sensory apparatus. The entire disclosure is directed to a device that produces different physical phenomena which are perceived by the user. The only way a user can perceive anything is through the five senses. Therefore, the term recited in claim 26 has support in the specification.

Further, claim 26 limits the, "sensory effects," by a Markush group which includes only those effects disclosed in the specification. Therefore, the claim is not broader than the disclosure.

Rejection under 35 USC 103(a)

Claims 2-4, 6, 8, 10-12, 14-16, and 21-27 stand rejected as obvious in view of Filo et al. The rejection states that,

" * * * it would have been obvious to one of
ordinary skill in the art to provide a

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combination foodstuff-holding device that produces an effect such as sound or light, which will interact with the food, which produces different effects based on manipulation by the manipulator, i.e., the person consuming the food."

The rejection is rationalized by maintaining that the Filo et al teaching illustrates operation of sound by manipulation of the foodstuff by the manipulator.

What is missing is the claimed requirement for,

" * * * a holding device that produces different levels of a sensory effect

based upon manipulation * * *," in claim 21, line 2.

There is a very simple difference between the claimed device and the teaching of Filo et al. The difference can be explained by two words. The Filo et al device may be described as a FIXED response to manipulation by the user. In other words, the device is contacted by the user's teeth and a pre-programed response takes place. The operation is analogous to a switch. The device is either off or on.

The claimed device may be described as INTERACTIVE in response to manipulation by the user. For example, the audible tones change in pitch and/or volume as the foodstuff is moved about the user. The intensity of the light may change in the same fashion. The

device may have different musical notes for varying contact by the user. This concept is not taught by the reference.

In a telephone interview on Nov.14, 2001, the undersigned and Examiner Bhat, discussed the terms, "sensory effects," and, "interactive." The five senses are considered to be inherent to the, "manipulator," as the only way to perceive the, "effects" disclosed and claimed in the application, therefore, it is considered that the sensory effects are included in the specification.

In distinguishing the claimed invention from the reference, Filo et al, the argument was put forth that the difference between the reference and the claimed invention was that the claimed invention was interactive with the manipulator whereas the reference device had no such function. For example, in this invention, the effects produced by the device change in relation to different spatial and contact relationships between the manipulator and the device. In the Filo et al device, the effect remains the same regardless of the different contact relationship between the manipulator and the device.

While Examiner Bhat agreed that the instant disclosure taught an interactive device, she considered the Filo et al device as interactive in the sense that the manipulator made it operate by contact.

A, "proportional," response to manipulation is not taught by

Filo et al. The reference device is either 100% on or 100% off.
Claim 21 has been amended to include such a recitation.

SUMMARY

In light of the foregoing remarks and amendment to the claims,
it is respectfully submitted that the Examiner will now find
claims 2,14, 18, 19, and 21-28, all the claims remaining in the
application allowable. Favorable reconsideration of the
application is courteously requested.

Respectfully submitted,



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